

PT 00-3

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

JESUS IS THE WAY PRISON)		
MINISTRY, INC.)	A.H. Docket #	98-PT-0064
Applicant)		
)	Docket #	97-10-202
v.)		
)	Parcel Index #	20-09-03-401-005
THE DEPARTMENT OF REVENUE)		20-09-03-401-012
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. William R. Scott appeared on behalf of Jesus Is The Way Prison Ministry, Inc.

Synopsis:

The hearing in this matter was held at the Willard Ice Building, 101 West Jefferson Street, Springfield, Illinois, on May 19, 1999, to determine whether or not all or part of Champaign County Parcel Index Nos. 20-09-03-401-005 and 20-09-03-401-012 qualified for exemption from real estate taxation for all or part of the 1997 assessment year.

Rev. Jesse Mathes, founder and President of Jesus Is The Way Prison Ministry, Inc. (hereinafter referred to as the "Applicant"), Mrs. Edith Mathes, Secretary-Treasurer of the applicant, and Mr. William Thomas, Associate Director of the applicant were present and testified on behalf of the applicant.

Champaign County Parcel Index No. 20-09-03-401-005, at the time the applicant

acquired it, was improved with a former Gulf Oil Company gas station. Champaign County Parcel Index No. 20-09-03-401-012, at the time the applicant acquired it, was improved with a restaurant building, a two-story brick building and three frame buildings that were formerly used as a motel.

The issues in this matter include, first whether the applicant is a religious and/or charitable organization; secondly, whether the applicant owned these parcels during all or part of the 1997 assessment year; and lastly, whether the applicant was either adapting all or part of these parcels for religious or charitable use or actually using all or part of these parcels for religious or charitable purposes during the 1997 assessment year.

Following the submission of all of the evidence and a review of the record, it is determined that the applicant is a religious and charitable organization. It is also determined that the applicant owned these parcels during the period January 9, 1997, through December 31, 1997. It is further determined that the applicant was either in the process of adapting Champaign County Parcel Index No. 20-09-03-401-005 for exempt use or using that parcel for exempt purposes during the period January 9, 1997, through December 31, 1997. Finally, it is determined that the applicant was either in the process of adapting portions of Champaign County Parcel Index No. 20-09-03-401-012 for religious or charitable use or using portions of that parcel for religious or charitable purposes during the period January 9, 1997, through December 31, 1997.

It is therefore recommended that Champaign County Parcel Index No. 20-09-03-401-005 and the improvements thereon be exempt from real estate taxation for 98% of the 1997 assessment year. It is also recommended that Champaign County Parcel Index No. 20-09-03-401-012 and the improvements thereon, except the three frame buildings that were formerly used as a motel and the land on which they were located, be exempt from real estate taxation for 98% of the 1997 assessment year.

Findings of Fact:

1. The jurisdiction and position of the Illinois Department of Revenue, (hereinafter

referred to as the “Department”) in this matter, namely that portions of these parcels did not qualify for exemption for the 1997 assessment year, was established by the admission in evidence of Department’s Exhibit Nos. 1 through 6A.

2. On January 9, 1998, the Champaign County Board of Review transmitted to the Department an Application for Property Tax Exemption To Board of Review concerning the parcels here in issue for the 1997 assessment year. (Dept. Ex. No. 2)

3. On September 24, 1998, the Department advised the applicant that 2 offices in the restaurant building and 3 offices and the two rooms used for storage in the two-story building and a proportionate amount of land were approved for exemption, and the remainder of the parcels here in issue were taxable. (Dept. Ex. No. 3)

4. By a letter dated September 30, 1998, the attorney for the applicant requested a formal hearing in this matter. (Dept. Ex. No. 4)

5. The hearing in this matter, conducted on May 19, 1999, was held pursuant to that request. (Dept. Ex. No. 5)

6. The applicant acquired the parcels here in issue by a quit claim deed from Hicks Oils and Hicksgas, Inc. for a consideration of one dollar on January 9, 1997. (Dept. Ex. No. 2A)

7. The applicant was incorporated pursuant to the “General Not For Profit Corporation Act” of Illinois on October 31, 1985, for purposes which included the following:

A. To travel to prisons and other correctional institutions, both in the State of Illinois and other states, to preach the gospel of Jesus Christ and to minister to prisoners in those institutions by means of preaching, music, prayer, counseling, and teaching.

B. To assist prisoners upon their release from correctional institutions by providing assistance with employment, housing, food, and other spiritual needs in an effort to assist such persons in becoming responsible and productive citizens. (Dept. Ex. 2B)

8. During 1997 the applicant’s income consisted of contributions from churches and individuals totaling \$228,574.05, a grant of \$25,000.00, and an insurance settlement of

\$18,400.00. (Appl. Ex. No. 11)

9. I take Administrative Notice of the Department's initial determination in this matter in which it exempted 2 offices in the restaurant building and 3 offices and 2 rooms in the two-story brick motel building. I therefore find that the Department has previously determined that the applicant is a religious organization. (Dept. Ex. No. 3)

10. The applicant acquired the parcels here in issue and the improvements thereon to serve as the offices of the prison ministry and also to provide facilities for the aftercare ministry. The aftercare ministry is a voluntary program where prisoners who accepted Jesus while they were in prison and who are recommended by the prison chaplain may come and live in the buildings on the parcels here in issue, receive instruction and help in obtaining employment, and learn to live in a way accepted by society so that they don't end up going back to prison. (Tr. pp. 55-57, Appl Ex. 18)

11. Champaign County Parcel Index No. 20-09-03-401-005 during 1997 was only improved with one building, the former Gulf Oil station. During 1997 the roof on the Gulf Oil station leaked. The applicant was still able to use it for storage of its lawn tractors, garden tools, and construction supplies. The foregoing items were stored under plastic in the gas station building during 1997. (Tr. pp. 39 & 59)

12. Champaign County Parcel Index No. 20-09-03-401-012 during 1997 was improved with a building that was formerly a restaurant, a two-story brick building, and three frame buildings that had been a motel. The three frame buildings, at the time the applicant acquired this parcel were in a deteriorated condition and in need of repair. The applicant immediately made a decision to demolish the three frame buildings and did not use them at any time for any purpose. It took some time to demolish these buildings. On December 31, 1997, all three frame buildings were still on this parcel although they were vacant and not being used. (Tr. pp. 25 & 26, Dept. Ex. 2D)

13. The building that formerly housed the restaurant is now known as the Ministry Center. It took several months of renovation including cleaning and painting to refurbish this

building. After renovation this building contained an apartment occupied by the Associate Director, William Thomas, a kitchen, pantry, storage areas, restrooms, and two large open spaces which were available for meetings and other activities. These areas were used for classes including family living education, GED preparation, and parenting for the aftercare residents. The aftercare residents also did their Bible study in one of these areas. One of these open spaces includes a cafeteria area where the aftercare residents receive their meals. These areas were also used by the ministry for staff meetings and training sessions. (Tr. p. 37, Dept Ex. No. 2-O, Appl. Exs. 5 & 9)

14. As previously stated the Ministry Center includes an efficiency apartment occupied by William Thomas who is the Associate Director of the applicant. Mr. Thomas moved into that apartment during late May or early June 1997. It is a condition of the employment of Mr. Thomas as Associate Director of the applicant that he live in this apartment so that he is available to provide supervision and guidance to the persons in the aftercare program. Mr. William "Burpy" Thomas had been a gang member in Chicago and served 16 years in prison on three murder convictions. Since Mr. Thomas himself had been incarcerated in a penitentiary and had accepted Jesus as his personal savior there, he is familiar with the problems and risks of persons coming out of the penitentiary. Mr. Thomas spends his days with the aftercare residents and is available to counsel them and work with them. The applicant is sensitive to the needs of the community and consequently Mr. Thomas is there at night to deal with any problems or conflicts that might arise with or among the aftercare residents. (Tr. pp. 36, 56-58)

15. The two-story brick motel building, now known as the office-residence building, when it was acquired needed a new roof. During the next several months a new roof was constructed on the office residence building. It was also necessary to put new carpet in the building and also to paint the interior walls. (Tr. p. 18)

16. Beginning in May or June of 1997 the first floor of that building was occupied as the offices of the applicant and for various other ministry uses. The applicant schedules preaching events and revivals in the prisons which Rev. Mathes conducts. The ministry also distributes

Bibles and Bible study literature to the prisoners at no cost. (Tr. pp. 59 & 60, Dept. Ex. No. 2W)

17. Beginning in the middle of June of 1997 the second floor of the office-residence building was used as sleeping quarters and a day room for the residents in the aftercare program. While the number of aftercare residents varied, substantially the entire second floor was either used or available for use by the aftercare program during the last six months of 1997. None of the residents on the second floor during 1997 were required to pay rent, to pay for their utilities, or to pay for their food. (Tr. pp. 61-64)

18. During the period January 9, 1997, through December 31, 1997, there were asphalt paved parking areas located in front of the Ministry Center and around the office-residence building which were used by the applicant's staff and volunteers in their religious and charitable use of the Ministry Center and the office-residence building. (Dept. Ex. Nos. 2F & 2G, & Appl. Ex. Nos. 2 & 3)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Concerning property used for religious purposes, 35 **ILCS** 200/15-40 exempts certain property from taxation, in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes, . . . not leased or otherwise used with a view to profit, is exempt,

Concerning charitable organizations, 35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States....

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956); Milward v. Paschen, 16 Ill.2d 302 (1959); and Cook County Collector v. National College of Education, 41 Ill.App.3d 633 (1st Dist. 1976). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944) and People ex rel. Lloyd v. University of Illinois, 357 Ill. 369 (1934). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967); Girl Scouts of DuPage County Council, Inc. v. Department of Revenue, 189 Ill.App.3d 858 (2nd Dist. 1989) and Board of Certified Safety Professionals v. Johnson, 112 Ill.2d 542 (1986). It is therefore very clear that the burden of proof is on the applicant to establish that it is entitled to an exemption.

Pursuant to the quit claim deed dated January 9, 1997, I conclude that the applicant owned these parcels during the period January 9, 1997, through December 31, 1997. I also conclude that the Department has previously determined that the applicant is a religious organization.

In the case of Methodist Old Peoples Home v. Korzen, 39 Ill.2d 149 (1968), the Illinois Supreme Court laid down five guidelines to be used in determining whether or not an organization is charitable. Those five guidelines read as follows: (1) the benefits derived are for an indefinite number of persons; (2) the organization has no capital, capital stock, or shareholders, and does not profit from the enterprise; (3) funds are derived mainly from private and public charity, and are held in trust for the objects and purposes expressed in its charter; (4)

charity is dispensed to all who need and apply for it; and (5) no obstacles are placed in the way of those seeking the benefits. Since the applicant does not charge any rent, utilities or board to the residents in the aftercare program, I conclude that the benefits derived are for an indefinite number of persons, charity is dispensed to all who need and apply for it, and no obstacles are placed in the way of those seeking the benefits. Since the applicant is organized under the General Not For Profit Corporation Act, I conclude that the applicant has no capital, capital stock, or shareholders, and does not profit from the enterprise. During 1997, the applicant received \$185,174.05 in contributions from churches and individuals out of total income of \$228,574.05. I therefore conclude that the applicant's funds are derived mainly from public and private charity and are held in trust for the objects and purposes expressed in its charter. Consequently, I conclude that the applicant is also a charitable organization which uses the Ministry Center and portions of the office-residence building for charitable purposes.

The next issue to be considered is whether or not the Associate Director's apartment in the Ministry Center qualified for exemption during the period January 9, 1997, through December 31, 1997. The Associate Director of the applicant was required to live on site as a condition of his employment so that he was available to work with the aftercare residents and to provide guidance and counseling to them. The Associate Director, I conclude, as a former inmate at a penitentiary who had accepted Jesus as his personal savior and who had been out of prison for a while was well qualified to work with and provide guidance to the aftercare residents. In view of the fact that the applicant is sensitive to the needs of the community, it is also necessary that Mr. Thomas be there at night to deal with any problems or conflicts that might arise with or among the aftercare residents. The Associate Director moved into his apartment shortly after the adaptation of the Ministry Center for exempt use was complete and before the first aftercare residents moved into the rooms on the second floor of the office-residence building. In the case of MacMurray College v. Wright, 38 Ill.2d 272 (1967), the Supreme Court considered whether or not faculty and staff housing owned by a college was used for school purposes. In that case, the Court applied a two-part test. First, were the residents of

the houses required to live in their residences because of their exempt duties for the college, and/or were they required to or did they perform any of their exempt duties there? In this case I conclude that the Associate Director was required to live in his apartment because of his exempt duties for the applicant, namely providing supervision and guidance to the residents in the aftercare program and being there at night to deal with any problems or conflicts that might arise with or among the aftercare residents.

The Ministry Center beginning on January 9, 1997, was renovated, cleaned, and painted and thereafter was used as a classroom and cafeteria as well as for Bible study for the aftercare residents. It was also used for staff meetings and training sessions by the applicant and is the location of the Associate Director's apartment. The office-residence building beginning on January 9, 1997, was re-roofed, re-carpeted, and painted and thereafter the first floor was used for offices of the applicant and the second floor was used for the residents in the aftercare program. In the case of Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987), Weslin Properties, Inc. on May 26, 1983, purchased a 24.3 acre tract to be developed into an Urgent Care Center, hospital, and related medical facilities. During 1983 Weslin Properties, Inc. approved a site plan and hired an architect. During 1984 construction on the Urgent Care facility began. In 1985 the Urgent Care Center was completed and occupied. The Court held that the Urgent Care facility qualified for exemption during 1983 but that the remainder of said parcel did not qualify for exemption during that year. The plans for the remainder of said parcel were not complete and Weslin Properties, Inc. had not satisfied the Court that during 1983 all of the intended uses of the remainder of that parcel would qualify for exemption. By June of 1997, I conclude that the Ministry Center and the office-residence building were being used for religious and charitable purposes. While the decision had been made to demolish the three frame former motel buildings and demolition had been started, all three were still on the property on December 31, 1997. These buildings were not going to be used for an exempt purpose. During the period January 9, 1997, through December 31, 1997, the three frame buildings formerly used as a motel were vacant and unused by the applicant. In the

case of Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1st Dist. 1983), the Court held that property which was vacant and not used did not qualify for the statutory exemption as property used exclusively for exempt purposes, regardless of the owner's intent.

I therefore conclude that the three frame buildings formerly used as a motel did not qualify for exemption for the period January 9, 1997 through December 31, 1997.

Parking areas may qualify for exemption from property taxation, if they meet the criteria set forth in 35 **ILCS** 200/15-125, which exempts certain property from taxation as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, school, or religious or charitable institution which meets the qualifications for exemption, are exempt.

During the period January 7, 1997 through December 31, 1997, the paved parking areas located in front of the Ministry Center and around the office-residence building were owned by a religious and charitable organization and used for the religious and charitable purposes of the applicant. These parking areas therefore qualified for exemption as parking areas pursuant to 35 **ILCS** 200/15-125.

During the period January 7, 1997 through December 31, 1997, the former Gulf Oil station located on Champaign County Parcel Index No. 20-09-03-401-005 was used for the storage of the applicant's lawn tractors, garden tools, and construction supplies. In the case of Our Savior Lutheran Church v. Department of Revenue, 204 Ill.App.3d 1005 (5th Dist. 1990), leave to appeal denied, the Court held that property owned by a church and used for storage of church records and furniture qualified for exemption. I consequently conclude that the building previously used as a gas station and in 1997 used for the storage of lawn tractors, garden tools, and construction supplies qualified for exemption.

I therefore recommend that Champaign County Parcel Index No. 20-09-03-401-005 and the improvements thereon be exempt from real estate taxation for 98% of the 1997 assessment year.

I also recommended that Champaign County Parcel Index No. 20-09-03-401-012 and the

improvements thereon, except for the three frame vacant buildings formerly used as a motel and the land on which they are located, be exempt from real estate taxation for 98% of the 1997 assessment year.

Finally I recommend that the three frame vacant buildings formerly used as a motel and the land on which they are located remain on the tax rolls for the 98% of the 1997 assessment year during which they were owned by the applicant.

Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
February 3, 2000